

## **DEPARTMENT OF LABOR**

### **2019 Regulatory Plan**

#### **Executive Summary: Safe and Family-Sustaining Jobs**

The Department of Labor's mission is to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights. The Department works to hold employers accountable for their legal obligations to their employees, while also helping employers understand and comply with the many laws and regulations affecting their workplaces.

The Department of Labor has made protecting America's employees and promoting job creation its top priorities. Under President Trump's and the Department's leadership, 5.6 million jobs have been created and more people are working in America than ever before. For 16 months in a row, the unemployment rate has been at or below 4.0% with June's unemployment rate at 3.7%, a level not seen since 1969. At 3.4%, annual wage growth continued an 11-month streak of being at or above 3.0%.

To build on this momentum, President Trump created the National Council for the American Worker in July 2018. The Council is charged with developing a National strategy for training and retraining the workers for jobs across high-demand industries. The Council also encourages businesses to sign the Pledge to America's Workers, which entails a commitment to expanding programs that educate, train, and reskill workers of all ages.

The Department is committed to fully and fairly enforcing the laws under its jurisdiction. The vast majority of employers work hard to keep their workplaces safe and to comply with wage and pension laws. Acknowledging this, the Department is working to provide compliance assistance, through its Office of Compliance Initiatives and Employer.gov, to give employers the knowledge and tools they need to comply with their legal obligations. Compliance with the law is, however, mandatory. Employers that do not comply with the law will continue to be subject to enforcement.

During the past year, the Department worked to improve health care access and affordability for workers. The Department issued a final regulation to allow more employers to offer portable health reimbursement arrangements (HRAs) which use tax-preferred funds to purchase insurance coverage on the individual market and to reimburse employees for qualified medical expenses.

The Department also rescinded requirements for large employers to electronically submit individual workplace injury and illness reports, which will protect workers' privacy while maintaining their safety. It also, with the Department of Homeland Security, increased the numerical limitation on H-2B nonimmigrant visas to fill seasonal jobs when there are not enough American workers available.

In the coming year, the Department will build upon its previous work to provide workforce protections, protect the jobs of American workers, and help the workforce add more family-sustaining jobs.

### **The Department of Labor's Regulatory Plan for Accomplishing These Objectives**

Where regulatory actions are necessary, the Department of Labor will issue regulation in a thoughtful and careful manner. The Department seeks to achieve needed employee protections while limiting the burdens that such necessary regulations place on job-creating employers.

In FY 2018, the Department ranked as the second-most deregulatory agency in the federal government with \$3.28 billion in present value cost savings. In 2018, the Department's regulations resulted in only 7,173 paperwork hours. By comparison, in 2016, the Department's regulations created 40,167,798 paperwork hours—the equivalent of over 25,000 additional full-time employees just to fill out the paperwork required by the regulations issued that year.

The Department's regulatory actions will provide American employers with certainty about workforce rules through prioritizing notice-and-comment rulemaking over sub-regulatory guidance. This transparent process, which involves substantial public input, is sensitive and responsive to the needs of interested parties.

The Department's regulatory plan will make employers' obligations under current law clear while respecting the rule of law. Where Congress is silent, the Department does not have the authority to write the law and will not attempt to do so.

The proposals that follow are common-sense approaches in areas needing regulatory attention. The proposals present a balanced plan for protecting employees, aiding them in the acquisition of needed skills, and helping the regulated community to do its part, all while minimizing regulatory burdens that restrain America's job creators.

The Department's Regulatory Agenda is consistent with the requirements of Section 1 of Executive Order (EO) 13771 "Reducing Regulation and Controlling Regulatory Costs," 82 FR 9339 (January 30, 2017), which recognizes that "it is essential to manage costs associated with the governmental imposition of private expenditures required to comply with Federal Regulations."

### **The Department's Regulatory Priorities**

The Department's Employment and Training Administration (ETA) oversees administration of federal job training and worker dislocation adjustment programs, Federal grants to states for public employment service programs, unemployment insurance benefits, and foreign labor certifications.

The Department issued a notice of proposed rulemaking that will create a path for apprenticeships to expand this proven job-training method to more careers and more workers in new industries. Under the proposed rule, industry groups, educational institutions, state and local governments, non-profit organizations, and unions, among other groups, could become standards recognition entities (SREs). In addition to developing apprenticeship standards, SREs would be charged with ensuring that apprenticeship programs in their industries meet specific hallmarks of high quality. These high-quality hallmarks include work-based learning, mentorship, education and instruction, industry-recognized credentials, safety and supervision, and paid work.

ETA is proposing updates to the Trade Adjustment Assistance (TAA) for Workers program regulations to simplify and provide clarity for state operation of the TAA program and consolidate all applicable program regulations into a single section of the Code of Federal Regulations. An update to the TAA regulations will provide a legally binding set of rules to guide the worker group certification process at the Federal level and the individual benefit and training authorization process at the state level.

Additionally, ETA is proposing to update its regulations regarding the H-2A non-immigrant visa program to include enhanced enforcement against fraud and abuse in addition to necessary technical improvements to the existing H-2A regulations. This proposal would modernize and streamline the program so that agricultural employers can get the seasonal workers that they need when U.S. workers are not available.

The Department's Employee Benefits Security Administration (EBSA) works to protect the benefit plans of workers, retirees, and their families. In response to Executive Order 13847, Strengthening Retirement Security in America, EBSA is exploring ways to reduce the costs and burdens imposed on employers and other plan fiduciaries responsible for the production and distribution of retirement plan disclosures required under Title I of the Employee Retirement Income Security Act. EBSA is also exploring ways to make these disclosures more understandable and useful for participants and beneficiaries. To that end, EBSA will propose a rulemaking to improve the effectiveness of and reduce the cost of furnishing required notices and disclosures by achieving broader use of electronic delivery as a way to improve the effectiveness of disclosures and reduce their associated costs and burdens.

The Wage and Hour Division (WHD) administers numerous laws that establish the minimum standards for wages and working conditions in the United States. WHD will finalize its rulemaking to update the salary level for the exemption of executive, administrative, and professional employees for overtime purposes. Additionally, WHD will finalize its update to its regulations concerning joint employer status under the Fair Labor Standards Act (FLSA), i.e., those situations in which a worker is considered an employee of two or more employers jointly. This will promote certainty for employers and employees, reduce litigation, promote greater uniformity among court decisions, and encourage innovation in the economy.

The Office of Federal Contract Compliance Programs (OFCCP) ensures that federal contractors and subcontractors take affirmative action and do not, among other things, discriminate on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or status as a protected veteran. OFCCP plans to finalize its proposed rulemaking that would update its regulations to comply with current law regarding protections for religious organizations, ensuring that these organizations can act on their sincerely held religious beliefs. Additionally, OFCCP will issue a proposal to ensure TRICARE and other health care providers can continue to provide high-quality care to service members, veterans, federal employees, and their families.

The Occupational Safety and Health Administration (OSHA) enforces a wide range of standards that are designed to reduce occupational deaths, injuries, and illnesses. OSHA is committed to establishing clear, common-sense standards to help accomplish this. OSHA will finalize its regulations to

protect workers from occupational exposure to beryllium, to clarify certain provisions and simplify or improve compliance.

The Office of Labor-Management Standards (OLMS) promotes union democracy and financial integrity in private sector labor unions through standards for union officer elections and union trusteeships and safeguards for union assets. OLMS will finalize its proposed rule that would require a labor organization with total annual receipts of \$250,000 or more to file a Form T-1 under certain circumstances. This requirement will increase transparency so that members can better understand their union's finances.